

DELAWARE RIVER BASIN COMMISSION

MEETING OF JULY 19, 2006

Minutes

The Commission met at the offices of the Delaware River Basin Commission in West Trenton, New Jersey.

Commissioners present: Lt. Col. Gwen E. Baker, Chair, United States
Cathy Curran Myers, Vice Chair, Pennsylvania
William A. Gast, Vice Chair, Pennsylvania
Mark N. Mauriello, Second Vice Chair, New Jersey
Michele Putnam, New Jersey
Joseph Miri, New Jersey
Mark Klotz, New York
Kevin C. Donnelly, Delaware
Harry W. Otto, Delaware

DRBC Staff participants: Carol R. Collier, Executive Director
Robert Tudor, Deputy Executive Director
Kenneth J. Warren, DRBC General Counsel, Wolf, Block, Schorr &
Solis-Cohen
Pamela M. Bush, Commission Secretary/Assistant General Counsel
Thomas J. Fikslin, Ph.D., Modeling and Monitoring Branch Head
Richard K. Fromuth, Operations Branch Head
Richard C. Gore, Chief Administrative Officer
William J. Muszynski, Project Review Branch Head
Kenneth F. Najjar, Ph.D., Planning and Implementation Branch
Head

Chair Lt. Col. Gwen E. Baker convened the business meeting at 1:30 p.m.

Minutes. Lt. Col. Baker called for a motion to approve the Minutes of the Commission's meeting of May 10, 2006. Mr. Donnelly so moved, Mr. Klotz seconded his motion, and the Minutes of the May 10, 2006 Commission Meeting were approved by unanimous vote.

Announcements. Ms. Bush announced the following upcoming meetings:

- *DRBC Toxics Advisory Committee (TAC).* The TAC will meet Tuesday, July 25, 2006 at 9:30 a.m. in the Goddard Conference Room, DRBC, 25 State Police Drive, West Trenton, New Jersey. The staff contact is Daniel Liao, (609) 883-9500, ext. 266.

- *DRBC Flood Advisory Committee (FAC)*. The FAC will meet Wednesday, August 9, 2006 at 10:00 a.m. in the Goddard Conference Room, DRBC, 25 State Police Drive, West Trenton, New Jersey. The staff contact is Rick Fromuth, (609) 883-9500, ext. 232.
- *DRBC Water Management Advisory Committee (WMAC)*. The WMAC will meet Thursday, September 14, 2006 at 9:30 a.m. in the Goddard Conference Room, DRBC, 25 State Police Drive, West Trenton, New Jersey. The staff contact is David Sayers, (609) 883-9500, ext. 236.
- *Next Commission Meeting*. The Commission's next business meeting and public hearing will take place on Wednesday, September 27, 2006 in the Goddard Conference Room, DRBC, 25 State Police Drive, West Trenton, New Jersey.

Announcement Regarding Status of the Lower Delaware Special Protection Waters (SPW) Designation. Mr. Mauriello announced that the Commission proposes to extend the temporary designation of the Lower Delaware River as a Special Protection Water (SPW). The proposed extension will be subject to a notice and comment rulemaking process. Public notice of the proposal will be published on the Commission's web page and will appear in the Federal, New Jersey and Pennsylvania registers in mid-to-late August. Mr. Mauriello emphasized that the commissioners remain committed to considering permanent designation of the Lower Delaware as SPW when they have resolved remaining implementation issues. Mr. Warren reiterated that the proposed extension would be subject to a formal rulemaking process, including a public hearing and a written comment period, prior to a vote by the commissioners.

Work Plan for the U.S. Army Corps of Engineers Grant Enhancing Multi-Jurisdictional Use and Management of the Water Resources of the Delaware River Basin. Stan Lulewicz of the Philadelphia District of the U.S. Army Corps of Engineers (the "Corps") reported that a \$1 million grant to the Philadelphia District from the Assistant Secretary of the Army for Civil Works ("ASA") has created an opportunity for important studies to be performed within the Delaware River Basin. The grant-funded effort is officially titled, *Enhancing Multi-Jurisdictional Use and Management of the Water Resources of the Delaware River Basin*. The source of the funds is a congressional appropriation in the amount of \$4.5 million as part of the Fiscal Year 2006 Energy and Water Appropriations Act (P.L. 109-103), specifically earmarked for the Corps' use in conducting basin-wide, multi-jurisdictional projects. The ASA issued a request for proposals to the Corps' 38 district offices in February 2006, stating that the projects must reflect inter-agency cooperation and should be capable of moving forward rapidly. No state or local matching funds were required. The Philadelphia District and DRBC staffs worked closely to develop a proposal for implementing components of DRBC's 2004 *Water Resources Plan for the Delaware River Basin* (the *Basin Plan*). In May of 2006, Philadelphia was one of five districts to be awarded grants, and one of only two to receive awards of \$1 million. According to the ASA, a primary reason for the district's success in the competition was the fact that the Commission and its Watershed Advisory Council, a diverse group of key stakeholders, had previously developed and endorsed the *Basin Plan*.

The Corps-funded project will address four priorities identified in the *Basin Plan*: (1) evaluating the long-term sufficiency of water supplies; (2) developing a long-term, adaptive flow management plan; (3) preparing a basin-wide flood mitigation plan; and (4) improving data management and data sharing capability among government agencies and the general public.

The water supply component of the project will focus on water demand and storage needs through 2030. Building upon the “Level B” study completed for the basin in 1981 and additional data developed by state and federal agencies, this component will attempt to determine short-term and long-term water supply storage needs through 2030, identify when new storage projects will be required, and project the associated costs.

The portion of the study addressing flow management will involve mathematical modeling to link human and ecological flow needs in the upper basin with those in the middle basin, the estuary and Delaware Bay. The Commission will build upon the results to determine flow needs and optimize the use of stored water.

The flood mitigation component of the project will revisit a Corps of Engineers study completed in 1984. The storm frequency curves at key locations will be updated and the 100- and 500-year floods will be better defined. Flood damage trends will be evaluated. The study will also consider the availability of storage to lower flood levels within the basin. Structural measures such as channel modification and levees, as well as nonstructural measures, such as flood-proofing and removal of structures within the flood plain, will be evaluated.

The data management component of the project will entail making all of the project data available to the public.

Philadelphia District staff, in consultation with DRBC staff, is developing a project management plan that identifies specific tasks, responsible parties, timelines and costs in detail for each of the work efforts. The detailed project management plan is expected to be completed by the end of July 2006, and the Corps hopes to receive clearance by mid-August to initiate the four project components. A draft report is expected in the summer of 2007, and a final report should be completed by the end of September 2007.

Mr. Donnelly thanked Stan and the DRBC staff for their effort in developing the proposal and project plans.

Mary Ellen Noble of the Delaware Riverkeeper Network asked whether and how the ASA grant project would factor in climate change. By way of example, she speculated that water supply could be diminished as a result of sea level rise and that tidal areas would likely become more susceptible to flooding. She asked whether the flow models and other studies to be funded through the ASA grant would include scenarios based upon temperature and sea level rise due to global warming. Ms. Noble made reference to a comment by Dr. Anthony Broccoli of Rutgers University in his presentation on climate change during the morning conference session. Dr. Broccoli predicted a shift from more frequent and smaller storm events to less frequent and larger events. Ms. Noble said that such a shift would likely result in more frequent floods and droughts. She urged that any long-term studies reflect the predicted hydrologic effects of climate change.

Mr. Tudor said that Dr. Broccoli had been invited to address the Commission that day precisely because the issue of climate change must be addressed in any long-term water demand and supply forecasting. He noted that significant sea level rise could change the dynamics of salinity in the estuary, and in turn, the river flows needed to repel salinity. He assured Ms. Noble that scenarios reflecting climate change would be considered.

Ms. Noble pointed out that when the Corps attempted to factor sea level rise into an evaluation of the impact of channel deepening in the Delaware Estuary, the results were ambiguous because the Corps' model was not designed for this type of analysis. Mr. Lulewicz and Mr. Tudor acknowledged that the planned studies would be undertaken with existing models. Both agreed to re-examine the question of whether the models could accommodate climate change scenarios.

Hydrologic Conditions. Mr. Fromuth's report on hydrologic conditions in the Basin was made during the morning conference session. At the request of the commissioners, it was included in the meeting record.

Extremely heavy rainfall over the Delaware River Basin during the June 24-28 period caused flash flooding and record to near-record flood crests along many streams and rivers throughout the basin, including the main stem Delaware River.

Although hydrologic conditions were normal to dry prior to Saturday, June 24, the large area and intensity of rainfall in the western half of the basin produced flooding. National Weather Service data indicate that between 6 inches and more than 15 inches of rain fell in the Schuylkill, Lehigh, and upper Delaware River watersheds during the period from June 24th through June 28th. At least 5 inches fell across nearly the entire basin, with the exception of portions of New Jersey and the immediate Philadelphia area, which received less.

Earlier this year, dry weather prompted both Pennsylvania and New Jersey to issue statewide drought watch declarations. These declarations were lifted soon after the June floods. New Jersey lifted its drought restrictions on June 28th, and Pennsylvania lifted its restrictions on June 30th.

The observed precipitation for the Delaware River Basin above Montague, New Jersey for the period January 1 through July 17, 2006 was 27.55 inches, or 4.37 inches above normal. For the same period, rainfall for the Delaware River Basin above Trenton, New Jersey was 29.38 inches or 5.49 inches above normal, and in Wilmington, Delaware, precipitation measured 26.93 inches or 3.24 inches above normal.

The average observed streamflow of the Delaware River at Montague, New Jersey in June 2006 was 20,185 cubic feet per second (cfs), or 599.9 percent of the long-term average for the month. The average observed streamflow at Trenton, New Jersey in June was 30,040 cfs, or 366.7 percent of the long-term average for the month.

For the period from July 1 through July 17, 2006, the average observed streamflow of the Delaware River at Montague was 11,275 cfs, or 437.7 percent of the long-term average for the month. The average streamflow at Trenton during the same period was 28,394 cfs, or 461.4 percent of the long-term average for the month.

In the Lower Basin, as of July 18, 2006, Beltzville Reservoir contained 13.17 billion gallons (bg) usable, or 101.3 percent of usable storage, and Blue Marsh contained 6.80 bg usable, or 104.6 percent of summer pool usable storage. Merrill Creek contained 15.567 bg usable, or 99.2 percent of usable storage as of July 17, 2006.

In the Upper Basin, as of July 18, 2006, Pepacton Reservoir contained 138.564 bg usable, or 98.8 percent of usable storage. Cannonsville contained 96.141 bg usable, or 100.5 percent of usable storage. Neversink contained 32.844 bg usable, or 94.0 percent of usable storage. Total New York City Delaware Basin reservoir storage was 267.549 bg usable, or 98.8 percent of usable storage.

As of July 15, 2006 the average ground water level in eight reported USGS observation wells in the Pennsylvania portion of the basin was above the long-term average. Water levels expressed as 30-day moving averages at four of these wells were within their normal ranges for this time of the year. Water levels at the remaining four wells were above their normal ranges. Water levels at the Cumberland County, New Jersey coastal plain observation well were within the normal range. Water levels at the New Castle County, Delaware coastal plain observation well were within their normal ranges as of March 15, the date last observed. The long-term USGS observation well in Kent County, Delaware has been discontinued.

During the month of June 2006, the location of the seven-day average of the 250-parts per million (ppm) isochlor, also known as the "salt line," ranged from river mile (RM) 67 to RM 70. The normal location of the salt line during June is RM 67, a location two miles downstream of the Delaware Memorial Bridge. As of July 17, 2006, the salt line was located at RM 63, six miles downstream of the Delaware Memorial Bridge. This location is nine miles downstream of the normal location of the salt line for July.

Executive Director's Report. Ms. Collier's remarks are summarized below:

- *DRBC's Response to June 2006 Flood.* In the days before the June flood and the weeks following, DRBC's staff devoted hours to providing analysis of flood crests and assembling a variety of main stem and reservoir data. The staff is currently developing an assessment of flood damage and identifying the most vulnerable areas, while responding to a myriad of requests for information from the media and members of the public. The Flood Advisory Committee will meet on August 9, 2006. Staff participated in a hearing convened by Congressman Michael Fitzpatrick of the 8th District of Pennsylvania on Monday, July 17th in New Hope. A congressional briefing for the Delaware River Basin Congressional Task Force and its Susquehanna River counterpart will be held in Washington, D.C. Chief of the Operations Branch, Rick Fromuth and Ms. Collier will attend. Ms. Collier thanked the members of the public who attended the Commission's morning conference session for sharing their experiences and concerns about the flooding.
- *State Funding.* DRBC has received appropriations from Pennsylvania over the past two years to assist in developing a state-wide water plan. In Fiscal Year 2007, the Pennsylvania legislature appropriated \$400,000 for the Commission's use in supporting state water plan efforts over two years. DRBC staff is working closely with Bill Gast of PADEP and his staff to move these initiatives forward.
- *Federal Funding.* Since 1997, DRBC has been working to restore its federal signatory party funding. The Senate version of the Water Resources Development Act (WRDA), which is expected to be voted upon today, is a potential vehicle for achieving that objective. The DRBC is seeking to have the eight basin senators support an amendment to the bill that would grant the Commission an annual credit in the amount of the federal government's share of the

Commission's operating budget. The credit would be deducted from payments the Commission makes annually to the Federal Treasury for its pro rata share of the construction cost of storage at the Blue Marsh and Beltzville reservoirs.

- *Ruth Patrick River Garden and Stormwater Retrofit.* The Commission has dedicated the courtyard of the West Trenton office building as the Ruth Patrick River Garden, and it is working to select a consultant to prepare final designs and specifications for the project. In addition, the firms of Princeton Hydro and Pickering, Corts & Summerson developed a stormwater retrofit plan for the entire West Trenton property. The stormwater retrofit would be undertaken in conjunction with development of the river garden. Development of the plan was funded largely by a Clean Water Act Section 319 program grant from the State of New Jersey. The Commission has issued a request for qualifications and request for proposals for construction of the first phase of the project.
- *Heating & Air Conditioning System.* Staff is in the process of negotiating a contract for analysis of the heating system and energy demands of the West Trenton office building. Once the contract is approved, the study should be completed within 90 days.
- *Award for Staff Members.* Rick Fromuth and Dick Tortoriello received an external partnering team award from the U.S. Army Corps of Engineers, Philadelphia District in recognition of their contribution as members of the F. E. Walter Dam Flow Management Working Group. Ms. Collier expressed the staff's appreciation for this recognition. She noted that after retiring from the DRBC a few years ago, Dick Tortoriello has worked for DRBC on a volunteer basis, contributing a total of 900 hours to date. Ms. Collier remarked on the agency's good fortune in having such dedicated alumnae.
- *Revitalizing Oyster Beds in the Delaware Bay.* Ms. Collier said that the one-year anniversary of an oyster revitalization project in the Delaware Bay was celebrated on the Leipsic River on July 7, 2006. A second event will take place in Glen Ridge, New Jersey on July 24th. The project involves planting shell on the floor of the Bay. Oyster recruitment has doubled in areas where the shell has been planted. The Rutgers Haskin Laboratory predicts that the 2005 shell-planting program could double the oyster harvest by 2008-2009.
- *PCB TMDLs.* This issue was originally scheduled for the morning session but was deferred because of the need to discuss flooding. The DRBC staff is developing a Stage 1 TMDL for Zone 6, the lower part of the Delaware Bay. A model calibration report was submitted to the U.S. EPA on June 20, 2006, and a draft Stage 1 TMDL report for Zone 6 was submitted to the agency on July 18th. The schedule established jointly by EPA Regions 2 and 3 calls for a comment period beginning in September, with public hearings to be held in both Delaware and New Jersey.

The TMDL Implementation Advisory Committee is a group of stakeholders convened in October 2003, which includes representatives from the regulatory community, industry, large and small municipalities and environmental organizations. The purpose of the committee has been to use a collaborative problem-solving process to develop a comprehensive list of PCB reduction strategies for both point and non-point sources. The group spent over two years studying PCB reduction programs elsewhere in the country and identifying possible approaches.

As staff has reported before, few models were found. A report and recommendations will be issued by the committee, reflecting the following consensus principles: (1) remove potential as well as active sources; (2) prevent the creation of new sources; (3) apply adaptive management methods; (4) apply current laws and regulations; (5) emphasize source removal; and (6) seek alliances. Strategies for contaminated sites, air deposition, riparian areas, and stormwater management will be included. The IAC has made progress, but IAC members continue to debate whether existing regulations for contaminated sites and air deposition are adequate to protect surface water quality, and if not, how the group should proceed. Members continue to work at developing an approach that can be supported by the full committee. Ms. Collier requested the commissioners' indulgence and a little more time to develop a consensus. She promised to report on any developments.

- *Co-Regulators Workshop.* In a resolution adopted on December 7, 2005 concerning the promulgation of estuary-wide PCB criteria, the Commission directed the executive director to convene a co-regulators workshop to discuss approaches to implementing criteria for persistent toxic substances such as PCBs. Such criteria typically cannot be achieved within a single NPDES permit cycle. The science developed for the Stage 1 TMDL in the Delaware Estuary indicates that to reduce PCBs to levels at which fish consumption advisories can be lifted could take decades. The Commission stated that the recommended approaches should be consistent with the regulatory framework of the Clean Water Act, but at the same time should reflect adaptive management principles. In partnership with U.S. EPA headquarters, EPA Regions 2 and 3 and the estuary states, DRBC staff has worked to comply with the Commission's directive. EPA has lent a great deal of support, in the form of professional facilitation, logistics, meeting space and travel expenses for out-of-state speakers. The two-day workshop is scheduled for August 7-8, 2006 at the offices of Region 3 in Philadelphia. Attendees will include representatives from EPA headquarters, the two EPA regions, the estuary states and DRBC. Staff from water quality standards, permitting, and legal branches of the various agencies will participate. The agenda includes speakers from other states and EPA regions, but the majority of the workshop will be dedicated to a discussion among the basin's co-regulators. The goal will be to reach agreement on a recommended approach to implementing criteria for persistent toxics in the Delaware Estuary. The response to invitations has been strong, with about 40 participants signed up. Ms. Collier urged as many commissioners as possible to attend. She noted that the results of the workshop will be shared with both the Toxics Advisory Committee and the TMDL Implementation Advisory Committee.

General Counsel's Report. Mr. Warren reported that the Brodhead Creek Regional Authority (BCRA) has requested a hearing to appeal certain provisions of a May 2006 docket for ground and surface water withdrawals within the drainage area to Special Protection Waters. Mr. Warren said that he is optimistic that Bill Muszynski and Pam Bush will be able to work with BCRA to resolve the authority's concerns. Mr. Warren recommended that the commissioners defer consideration of the request for hearing until their next business meeting, when Mr. Muszynski and Ms. Bush will report on the status of discussions with BCRA.

Public Hearing: Project Review Applications. Mr. Muszynski noted that the DRBC's Internet home page includes a direct link to a project application status page, which reports the status of every application undergoing Commission review. Applicants can view the page to learn which steps of the review process remain and when their projects are scheduled for hearing. The page also provides

the name of the Project Review Branch staff member responsible for each application, in order to facilitate contacts between applicants or concerned stakeholders and DRBC staff.

Mr. Muszynski explained that the public hearing would address 14 dockets, including three in Delaware, three in New Jersey and nine in Pennsylvania. Docket No. D-84-10 CP-4 (hearing item 7) involving public water storage facilities for northern New Castle County, Delaware, involves both Delaware and Pennsylvania. Five of the dockets noticed for public hearing were postponed. Of these, three required additional time for review: Docket D-91-53-2 for Joseph Jackewicz, Sr. (hearing item 2); Docket D-98-55-3 for Green-Waltz Water Company/Nestle Waters North America, Inc. (hearing item 12); and Docket D-2006-8-1 for Green Walk Trout Hatchery (hearing item 14). One docket – Docket D-67-196-2 for the Horsehead Corporation (hearing item 6) – was postponed at the request of the applicant. One docket – Docket D-93-72 CP-2 for the Town of Smyrna (hearing item 10) – was postponed at the request of the host state.

Brief descriptions of the dockets follow, in three categories: Four entail renewals with no substantive changes (e.g., a replacement well with no increase or decrease in allocation); four constitute renewals with substantive changes (e.g., an increase or decrease in an authorized withdrawal or discharge); and six are new projects (i.e., projects not previously reviewed by the Commission).

Renewals with No Substantive Changes (4).

1. City of Harrington D-88-27 CP-3. An application for the renewal of a ground water withdrawal project to continue withdrawal of 21 mg/30 days to supply the applicant's public water supply distribution system from existing Wells Nos. 1, 2, 3 and 4 in the Frederica Aquifer. The project is located in the Browns Branch Watershed in the City of Harrington, Kent County, Delaware.
2. Joseph Jackewicz, Sr. D-91-53-2. [Postponed]
3. Borough of Richland D-92-1 CP-2. An application for the renewal of a ground water withdrawal project to continue withdrawal of 5.2 mg/30 days to supply the applicant's public water supply distribution system from existing Wells Nos. 1, 2, 3, 4 and 5 and new Well No. 6 in the Stonehenge, Millbach, Hardyston and Crystalline Rock formations. The project is located in the Mill Creek Watershed in Richland Borough, Lebanon County, Pennsylvania.
4. Evesham Municipal Utilities Authority D-98-15 CP-1. An application for approval of a ground water withdrawal project to continue to supply up to 149 mg/30 days of water to the applicant's distribution system through new Aquifer-Storage-Recovery Well No. 14 and existing wells Nos. 4 through 13 without an increase in existing allocation. The project is located in the Rancocas Creek Watershed in Evesham Township, Burlington County, New Jersey. (*This was NAR'd as D-98-15 CP.*)
5. Pennsylvania American Water Company D-2003-32 CP. An application for approval of a ground water withdrawal project to supply up to 4.32 mg/30 days of water to the applicant's public water supply distribution system from new Well No. DG-13 in the Brunswick Formation, and to retain the existing withdrawal from all wells to 29.14 mg/30 days. The

project is located in the Schuylkill River watershed in Amity Township, Berks County, Pennsylvania.

No written or oral comments were offered on the four renewals without substantive changes, and no material changes to the allocations were proposed. Mr. Muszynski recommended that the four dockets be approved. Lt. Col. Baker called for a motion to approve hearing items 1, 3, 4 and 5. Mr. Donnelly so moved, Mr. Gast seconded his motion, and the four dockets were approved by unanimous vote.

Renewals with Substantive Changes (4).

6. Horsehead Corporation D-67-196-2. [Postponed]
7. Delaware Department of Natural Resources and Environmental Control (DNREC) D-84-10 CP-4. An application to amend the DRBC Comprehensive Plan and to revise Docket No. D-84-10 CP (Supplement No. 1), Water Supply Plan for northern New Castle County, Delaware. The applicant proposes to delete Churchman's Marsh and Thompson Station Reservoirs and the development of additional ground water supplies at the Delaplane Manor well site from the Comprehensive Plan, and incorporate into the Comprehensive Plan the projects identified in Tables 5.2 and 5.4 of the Eighth Progress Report of the Delaware Water Supply Coordinating Council, dated March 8, 2006.
8. Bart Golf Club, Inc. D-92-24-2. An application for renewal of a surface water withdrawal project to supply up to 11.0 million gallons per thirty days of water for supplemental irrigation of the applicant's Hickory Valley Golf Club from an existing surface water intake located on Swamp Creek at the confluence of Schlegel Run. The allocation is a reduction from the previous allocation of 15 mg/30 days. The project is located in the Swamp Creek Watershed in New Hanover Township, Montgomery County, Pennsylvania and is located in the Southeastern Pennsylvania Ground Water Protected Area.
9. Bridgeport Disposal, LLC D-93-63-2. An application to update and renew an existing industrial wastewater treatment plant (IWTP) discharge docket. The former commercial hazardous waste treatment facility still includes an on-site biological treatment system and a groundwater and leachate treatment system. The docket renewal will reflect changes in operations since the facility ceased in 2001 to serve as a commercial hazardous waste treatment facility. The IWTP discharges approximately 0.47 mgd of treated wastewater through a subsurface diffuser to Raccoon Creek, a tributary to Water Quality Zone 4 of the Delaware River. The facility is located in Bridgeport, Gloucester County, New Jersey.
10. Town of Smyrna D-93-72 CP-2. (Postponed)
11. North Coventry Municipal Authority D-97-1 CP-2. An application to expand the docket holder's existing waste water treatment plant (WWTP) from 1.5 million gallons per day (mgd) to 2.01 mgd. The project includes the addition of new screening facilities, increased aeration, an additional clarifier and two new aerobic digesters. The WWTP discharges approximately 0.7 mgd to the Schuylkill River. The facility is located in North Coventry Township, Chester County, Pennsylvania.
12. Green-Waltz Water Company/Nestle Waters North America Inc. D-98-55-3. [Postponed]

Mr. Muszynski recommended that the four docket renewals involving substantive changes be approved.

Lt. Col. Baker invited comments or questions on the four dockets. Regarding Docket No. D-84-10 CP-4 for Delaware DNREC (hearing item 7), Mr. Donnelly offered recognition of Ms. Dorothy Miller and Ms. Nancy Parker, two members of the Coalition for Natural Stream Valleys, and Jerry Kauffman of the University of Delaware's Water Resources Agency. Ms. Miller and Ms. Parker serve alongside Mr. Donnelly on the Delaware Water Supply Coordinating Council, and Mr. Kauffman is the Council's Coordinator. Mr. Donnelly explained that the docket reflects the Council's hard work over a period of approximately six years. He expressed his appreciation and that of Governor Minner and Secretary Hughes for the Council's effort and noted that Ms. Miller and Ms. Parker had waited patiently and long for removal of the Thompson Station and Churchman's Marsh reservoirs from the Commission's Comprehensive Plan. Mr. Donnelly thanked Mr. Muszynski for his help in finalizing the docket so that the Commission could act upon it today.

Mr. Donnelly then offered a motion for approval of hearing items 7, 8, 9 and 11 as proposed. Mr. Mauriello seconded his motion, and hearing items 7, 8, 9 and 11 were approved by unanimous vote.

New Projects (6).

13. Ricci Brothers Sand Company, Inc., D-2005-10-1. An application for approval of a surface water withdrawal project to supply up to 182.0 mg/30 days from four existing and one proposed surface water intakes for sand and gravel processing. The surface water intakes are located on a former mining pond which is in connection with and fed by groundwater. The intakes provide water to process the sand and gravel in a loop system which recycles approximately 90% of the water back to the pond. The allocation will be limited to 182.0 mg/30 days. The project is located in the Dividing Creek Watershed in Commercial and Downe Townships, Cumberland County, New Jersey.
14. Green Walk Trout Hatchery D-2006-8-1. [Postponed]
15. Bedminster Municipal Authority D-2006-10 CP-1. An application for the construction of a new .06 mgd WWTP, a new sewer collection system and sewage pumping station and a force main to service a proposed 217-unit single family home subdivision. The Pennland Farm WWTP will discharge to an unnamed tributary of Deep Run Creek, which is a tributary to the Tohickon Creek, tributary to the Lower Delaware River Special Protection Waters. The facility will be located in Bedminster Township, Bucks County, Pennsylvania.
16. Tidewater Utilities, Inc. D-2006-12 CP-1. An application for approval of a ground water withdrawal project to supply up to 5.99 mg/30 days of water to meet the demands of the applicant's East District public water supply distribution system from new Wells MV-01, MV-02, VM-01 and VM-02R. The project is located in the Mt. Laurel Formation in the C&D Canal East Watershed in the Town of Middletown-Odessa, New Castle County, Delaware.
17. Skytop Lodge Corporation D-2006-13-1. An application for approval of an existing wastewater treatment plant located at Skytop Lodge. The existing WWTP is designed to discharge 0.075 mgd to the Brodhead Creek, which converges with the Delaware River at

River Mile 213, within a reach classified as “Outstanding Basin Waters.” The facility is located in Barrett Township, Monroe County, Pennsylvania.

18. Blue Ridge Country Club D-2006-18-1. An application for approval of a ground and surface water withdrawal project to supply up to 10.59 mgd/30 days of water to the applicant’s golf course irrigation system from existing Wells Nos. 1, 2, 4 and 5 and a constructed pond. The project is located in the Walcksville Member of the Catskill Formation in the Fireline Creek Watershed in Lower Towamensing Township, Carbon County, Pennsylvania.
19. Coolbaugh Township D-2006-23 CP-1. An application for approval to upgrade and rerate an existing WWTP to add advanced secondary treatment and allow an increase from 0.049 mgd to 0.052 mgd. The plant discharges to the Tobyhanna Creek in the Lehigh River Watershed. The project is located in the drainage area of the Lower Delaware River Management Plan in Coolbaugh Township, Monroe County, Pennsylvania. The WWTP will continue to serve a portion of Coolbaugh Township only and will discharge through the existing outfall, which is upstream from F.E. Walter Dam and Pocono Lake.

Mr. Muszynski recommended that the six remaining dockets be approved. Sam Ricci, Jr. of Ricci Brothers Sand Company, Inc. thanked the Commission for its review of his project and directed attention to Condition ‘j’ of draft Docket No. D-2005-10-1 for the project. Condition “j” provides that withdrawals must be metered with an automatic continuous recording device that measures to within 5 percent of actual flow. Mr. Ricci said that New Jersey’s water allocation regulations contain an express exception to metering requirements for standard ground mining operations. He asked the Commission to consider applying the exception contained in N.J.A.C. 7-19-2.14(a)4.ii. Mr. Muszynski said he was not familiar with the New Jersey regulation cited. Mr. Warren noted that Mr. Ricci had not raised this issue in advance of the hearing, which might have allowed staff to investigate it. He recommended that the Commission might defer consideration of the docket to allow the staff an opportunity to look into the matter, but he advised against including in the docket an exemption that the Commission had not had an opportunity to consider. Mr. Ricci requested that the docket be deferred pending resolution of the matter. However, Mr. Muszynski noted that although the facility has been in existence since 1958, it is currently operating without a docket. He said that in theory the company was not authorized to utilize its allocation, notwithstanding approval by New Jersey, until the Commission also approved the withdrawal. In light of Mr. Muszynski’s comment, Mr. Ricci withdrew his request for deferral. Mr. Warren advised that the Commission could approve the docket as drafted and entertain a request to amend the docket after staff and the commissioners have had an opportunity to consider the metering issue. Mr. Ricci agreed.

Hearing no further comments or questions, Lt. Col. Baker requested a motion for approval of the six dockets. Mr. Donnelly so moved, Mr. Gast seconded his motion, and hearing items 13, 15, 16, 17, 18 and 19 were approved by unanimous vote.

Resolution Authorizing the Executive Director to Accept Funds from the Federal Emergency Management Agency (FEMA) for Multi-Jurisdictional Flood Mitigation Plans in Four New Jersey Counties. Laura Tessieri of the Commission’s Operations Branch explained that the proposed action would enable the Commission to participate in a multi-agency and local planning effort to develop a multi-jurisdictional flood mitigation plan for portions of the Delaware River Basin, to be implemented through local ordinances. The development and local adoption of such a plan enables participating municipalities to become eligible for mitigation grant opportunities through FEMA’s

flood mitigation assistance program. Importantly, a multi-jurisdictional flood mitigation plan is also a key component of an all-hazards mitigation plan. Once a municipality has adopted an all-hazards mitigation plan approved by FEMA, the municipality becomes eligible for assistance through FEMA's pre-disaster mitigation grant fund (PDM) and post-disaster assistance program, the hazard mitigation grant program (HMGP).

Grant constraints require that the development of a multi-jurisdictional flood mitigation planning approach for the Delaware Basin take place in phases. This initial phase is proposed to examine the non-tidal New Jersey section of the basin. It is hoped the product will serve as a prototype for flood mitigation plans elsewhere in the basin.

The New Jersey Office of Emergency Management (NJOEM) has obtained a FEMA grant in the amount of approximately \$97,700, all of which is proposed to be passed through to DRBC to support the development of a flood mitigation plan for municipalities within Hunterdon, Mercer, Sussex and Warren counties that are located either entirely or partially within the Delaware River Basin. DRBC and NJDEP will assist in development of the proposed plan over a period of two years. The grant requires a 25% non-federal match, which can be satisfied with cash or in-kind contributions. NJDEP has pledged 290 hours of in-kind effort, and the DRBC is proposing to contribute 180 hours of in-kind effort to the project. If approved, the proposed resolution would authorize the Commission to enter into an agreement with NJOEM to provide technical support and assistance valued at approximately \$110,600 over a period of two years.

Hearing no further questions or comments, Lt. Col. Baker called for a motion to adopt the resolution authorizing the executive director to accept funds from FEMA toward development of a multi-jurisdictional flood mitigation assistance plan for the non-tidal portion of the basin within the State of New Jersey. Mr. Mauriello so moved, Mr. Klotz seconded his motion and Resolution No. 2006-12 was approved by unanimous vote.

Resolution Authorizing the Executive Director to Enter into an Agreement with the Academy of Natural Sciences for the Collection and Analysis of Sediment Cores to Support the Development of Stage 2 TMDLs for PCBs in the Delaware Estuary. The purpose of the proposed sediment core sampling is to develop a chronology of the accumulation of pollutants in estuary sediments. Scientists can use this information to determine the accuracy of their hydrodynamic and water quality models by running the models with historical data inputs to see whether they accurately predict current conditions. Accurate models can be used to predict the impact of pollutant source reduction programs on water quality, and in turn, on levels of fish tissue contamination. Sediment cores were collected and analyzed during the development of the Stage 1 TMDL for PCBs in the Delaware Estuary, which was completed in 2003. From among three hundred cores collected for the Stage 1 effort, however, only one showed a clear chronology. Additional cores were subsequently collected in marshes fringing the estuary, but again, only one provided clear chronological data. Because the river and estuary are erosional, there are few places from which usable cores can be extracted. However, additional cores are needed to determine depositional history at different locations within the estuary.

The current proposal for additional sediment core studies was developed several years ago by the Academy of Natural Sciences and the University of Delaware. The study is still timely and will aid in developing science and policy not only for PCBs, but for other contaminants as well. The

Academy of Natural Sciences proposes to analyze nitrogen and phosphorus histories. Metals are another topic of potential study. A goal of the study is to obtain a minimum of seven usable cores from Delaware Bay upstream through Trenton, providing a pollutant history for each area.

The proposed resolution would authorize the to enter into an agreement with the Academy of Natural Sciences. The University of Delaware will be a partner in the effort, but not a party to this agreement. The Academy has pledged \$25,000 to the project. The Commission has identified \$75,000 in Clean Water Act Section 106 funds available for the work and anticipates additional state and federal funding for the effort. The proposed resolution would authorize an agreement not to exceed \$75,000 or the sum of \$75,000 plus any additional funds expressly allocated by the contributor(s) for this study.

Mr. Donnelly asked whether the cores would aid in the development of a dioxin TMDL for the State of Delaware, due to be completed by 2011. Dr. Fikslin confirmed that the cores would be of use in that effort. He reiterated that the cores could be analyzed for multiple contaminants and noted that the last group of samples was collected by the University of Delaware and split among a number of researchers. With one portion, Rutgers University analyzed for PCBs and the University of Delaware for metals. Another portion was utilized by researchers in France to analyze metals. Mr. Donnelly said Rick Greene would be Delaware's point of contact for the project.

Hearing no further questions or comments, Lt. Col. Baker called for a motion to adopt the proposed resolution authorizing the executive director to enter into an agreement with the Academy of Natural Sciences for the collection and analysis of sediment cores to support the development of Stage 2 TMDLs for PCBs in the Delaware Estuary. Mr. Donnelly so moved, Mr. Klotz seconded his motion, and Resolution No. 2006-13 was approved by unanimous vote.

Resolution Authorizing the Executive Director to Enter into a Contract for Analysis of Benthic Macroinvertebrate Samples from the Delaware River. The Commission has conducted an annual biomonitoring program in the non-tidal river between Trenton and Hancock since a pilot project was conducted in 2001. Although a portion of the collected samples were analyzed, a backlog of 50 unanalyzed samples exists from collections in 2002 and 2005, and approximately 25 samples each year will be collected in 2006, 2007 and 2008. Analytical results will be used in developing biological criteria for freshwater reaches of the main stem. The proposed resolution would authorize the executive director to execute a contract with the firm EcoAnalysts, Inc., with offices in Selinsgrove, Pennsylvania. The company was selected from among six firms that submitted technical and cost proposals in response to an RFP. The per-sample cost will be \$319.50. The proposed contract is for one year with an option to renew for two additional years. The draft resolution authorizes a total project cost not to exceed \$40,000.

Hearing no further questions or comments, Lt. Col. Baker called for a motion to adopt the proposed resolution authorizing the executive director to enter into a contract for analysis of benthic macroinvertebrate samples from the Delaware River. Mr. Gast so moved, Mr. Donnelly seconded his motion, and Resolution No. 2006-14 was approved by unanimous vote.

Resolution Authorizing the Executive Director to Enter into a Contract for Landscape Architectural Services to Develop the Ruth Patrick River Garden. Courtyard design concepts were presented to the Commission last year, and a ceremony honoring Dr. Ruth Patrick was held at the Commission's meeting in December of 2005. An RFP was issued for a detailed design and phased construction plan based upon the selected concept. Three bid proposals were submitted by qualified firms, and interviews were conducted with each of the bidders. Staff recommends that the Commission engage the firm of Pickering, Corts & Summerson, Inc., with offices in New Jersey and Pennsylvania, to perform the work at a cost not to exceed \$25,000, representing half of a contribution from the Haas Charitable Trusts.

Mr. Mauriello asked how the courtyard and stormwater retrofit projects relate to one another. Dr. Najjar explained that the design and construction of the two projects would be coordinated. However, the proposed resolution is limited to design and construction of the courtyard. The three firms competing for the project were asked to consider the drainage connection from the courtyard to the perimeter and were given constraints similar to those for the stormwater retrofit, including the use of native, low-maintenance plant species.

Hearing no further comments, Lt. Col. Baker requested a motion to approve the proposed resolution authorizing the executive director to enter into a contract for landscape architectural services to develop the Ruth Patrick River Garden. Mr. Klotz so moved, Mr. Mauriello seconded the motion, and Resolution No. 2006-15 was approved by unanimous vote.

Add-On: Resolution Authorizing the Executive Director to Enter into an Agreement for Implementation of Phase I of the Stormwater Retrofit of the Delaware River Basin Commission Headquarters Property. The Commission previously selected the firm of Princeton Hydro, LLC to develop a phased stormwater and landscape plan for the West Trenton site and to develop a detailed design for Phase I. The proposed resolution would authorize the executive director to solicit bids and enter into an agreement for the construction of Phase I, consisting of a vegetated detention basin that will collect stormwater before it leaves the site. The draft resolution authorizes an expenditure of up to \$125,000; however staff expects to receive viable bids for less. The total construction cost for the project is expected to be approximately \$300,000, excluding detailed designs for phases two through six, which will comprise a separate expense.

Hearing no further questions or comments, Lt. Col. Baker requested a motion to approve the resolution authorizing the executive director to enter into an agreement for implementation of Phase I of the stormwater retrofit of the Delaware River Basin Commission headquarters property. Mr. Donnelly so moved, Mr. Mauriello seconded the motion, and the commissioners approved Resolution No. 2006-16 by unanimous vote.

Resolution to Approve a DRBC Records Retention Schedule. Ms. Bush observed that the Commission has accumulated a great deal of paper in its 45 years and is in need of an approved records retention schedule. The Commission's Information Resource Manager, Kim Wobick, reached out to the New Jersey Division of Archives and Records Management (DARM), which offered to prepare a retention schedule for the DRBC in consultation with Commission staff. DARM staff members met and spoke with every branch manager, reviewed DRBC files to gain an understanding of the types of records kept, and even visited the building's attic storage space. DARM staff also reviewed the retention rules of the signatory parties before producing a draft schedule, which DRBC's managers then reviewed and modified. The product is a schedule that staff believes meets the needs of the Commission and is at least

as conservative as the schedules applied by the signatory parties. If the Commission approves the schedule, it will be considered for approval by the New Jersey State Records Committee (NJSRC). Once the schedule is approved by the NJSRC, DRBC will enjoy certain benefits, including favorable rates for off-site storage. Importantly, DRBC will also have the ability to dispose of records in a systematic way.

Mr. Gast asked whether the proposed schedule provides for permanent retention of some records. Ms. Bush said that a number of types of records would be kept permanently. Ms. Wobick added that the DRBC will have the ability to store permanently retained documents at a New Jersey records facility less than one mile away from the West Trenton office building at very low cost. Mr. Gast expressed concern about “attic” storage. Ms. Bush said that since Kim arrived, the attic storage situation had been vastly improved and that particularly valuable documents are kept in a fire-proof safe. She said the records storage situation would continue to improve with the institution of an approved retention schedule. Ms. Wobick commented that staff is making important improvements short of electronic storage, which is extremely expensive. Mr. Donnelly commented that the schedule was certainly a step in the right direction, adding that it constituted an impressive and comprehensive summary of storage requirements. Ms. Bush expressed thanks to Kim Wobick and to JoAnn Seitter of DARM, who led the effort.

Lt. Col. Baker invited further questions or comments. Hearing none, she requested a motion to approve the proposed resolution adopting a DRBC records retention schedule. Mr. Gast so moved and Mr. Donnelly seconded his motion. Resolution No. 2006-17 was approved by unanimous vote.

Public Dialogue. Jim Serio of the Delaware River Foundation invited the commissioners and staff to attend DRF’s sixth annual Day on the Delaware, noting that this year’s event will run for two days, on Friday and Saturday, August 11-12. Mr. Serio explained that the Friday format will be similar to that of previous Days on the Delaware, consisting of a morning discussion of flow management issues and how they affect river habitat, followed by a more open forum in the afternoon. Discussions on Saturday morning, August 12th will focus more closely on concerns of the fishing community. Saturday afternoon will be devoted to a cleanup effort to remove flood-related debris along the West Branch Delaware River. The event will take place at the West Branch Angler in Hancock, New York. Mr. Serio observed with regret that the June flood had washed away the resort’s cozy riverfront cabins, but he assured the audience that DRF could provide information about alternative lodging.

Ms. Bush asked the commissioners to make a point of reviewing a letter from the Philadelphia Water Department that was included in their meeting folders. The letter was submitted in response to comments offered during the Public Dialogue section of the Commission’s meeting on May 10, 2006 regarding the use of ferric chloride as a flocculant in the City’s water treatment plants.

Hearing no further comments, Lt. Col. Baker requested a motion to adjourn the meeting. Mr. Donnelly so moved, Mr. Mauriello seconded the motion and the Commission’s business meeting was adjourned at 3:00 p.m.

/s/ Pamela M. Bush

Pamela M. Bush, Esquire, Commission Secretary